

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**CHINNA DUNIGAN**

**PLAINTIFF**

**V.**

**NO. 4:19-CV-33-DMB-JMV**

**MISSISSIPPI VALLEY STATE  
UNIVERSITY; RENARDO HALL  
(individual capacity)**

**DEFENDANTS**

**ORDER**

This matter is before the court on defendants' motion to exclude the testimony of plaintiff's expert witnesses pursuant to Fed. R. Civ. P. 37(c) and L. U. Civ. R. 26(a)(2)(B) for failure to comply with Fed. R. Civ. P. 26(a)(2)(B) regarding disclosure of expert testimony. As discuss further below, the motion to strike is denied as untimely.

On June 26, 2019, this court entered a Case Management Order requiring the plaintiff to designate expert witnesses by September 27, 2019 and setting a discovery deadline of December 27, 2019. Doc. #18.

On September 25, 2019, plaintiff filed it Notice of Designation of Expert Witnesses. Doc. # 36, 80-1. On January 13, 2020, defendants filed the instant motion to strike plaintiff's designation of expert witnesses. Doc. # 80.

L. U. Civ. R. 26(a)(3) states, in relevant part, "[c]hallenges as to inadequate disclosure of expert witness(es) must be made no later than thirty days before the discovery deadline or will be deemed waived."

Due to defendants' failure to file the instant motion by November 27, 2019—thirty days before the close of discovery—, defendants' motion to strike is untimely, and its challenge of plaintiff's expert designations has been waived.

On the other hand, it bears noting that a denial of motion to strike does not make plaintiff's expert disclosure any more or less adequate, under Fed. R. Civ. P. 26, than it actually is. In other words, unless the district judge finds otherwise, plaintiff will be limited at trial to offering only those facts and opinions that have, in fact, been properly disclosed.

**SO ORDERED** this, Thursday, February 6, 2020.

/s/ Jane M. Virden

**UNITED STATES MAGISTRATE JUDGE**